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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,888	06/29/2001	Anil Vasudevan	219.40060X00	4965
23838	7590	05/12/2008	[REDACTED]	[REDACTED]
KENYON & KENYON LLP			EXAMINER	
1500 K STREET N.W.				BAROT, BHARAT
SUITE 700			[REDACTED]	[REDACTED]
WASHINGTON, DC 20005			ART UNIT	PAPER NUMBER
			2155	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/893,888	VASUDEVAN, ANIL	
Examiner	Art Unit		
Bharat N. Barot	2155		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 February 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09/20/2001</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

RESPONSE TO AMENDMENT

1. Claims 1-24 remain for further examination.

The old rejection maintained

2. Applicant's arguments with respect to claims 1-24 filed on February 08, 2008 have been fully considered but they are not deemed to be persuasive for the claims 1-24. The rejection is respectfully maintained as set forth in the last Office Action mailed on November 05, 2004.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (U.S. Patent No. 5,727,002) in view of Chalasani et al (U.S. Patent No. 5,274,782).

5. As to claim 1, Miller et al teach a method of transferring data packets between a server environment and a client (abstract, figures 1-2; and column 4 line 50 to column 5 line 63), the method comprising: receiving a data packet from a stack (source) in the server environment; sending an acknowledgement packet to the stack; and after sending the acknowledgement packet, transmitting the data packet across an I/O bus (network) in the server environment to the client

(figures 1-3; and column 5 line 64 to column 7 line 61; and column 15 line 27 to column 16 line 52).

However, Miller et al do not teach that the acknowledgment packet is sent to the stack without sending the acknowledgment packet across the I/O bus.

Chalasani et al teach that transmitting the data packet across an I/O bus (network) in the server (memory modules) environment; and the acknowledgment packet is sent to the stack (processing elements) without sending the acknowledgment packet across the I/O bus (sending the acknowledgment packet across a response network) (figures 1-3; and column 5 line 9 to column 6 line 20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chalasani et al stated above in the method of Miller et al as stated above because it would have improved managing and controlling a network switch and limit the flexibility and performance scalability of the network by reducing packet traffic across the I/O bus (network) in the server environment.

6. As to claim 2, Miller et al disclose that the data packets comprise TCP/IP data packets (column 5 line 64 to column 6 line11; and column 13 lines 18-31).

7. As to claim 3, Miller et al teach that storing information regarding the transmitted data packet in a network interface card (figure 2; column 5 lines 63; and column 13 lines 18-55).

8. As to claim 4, Miller et al teach that transmitting the data packet across a network from the server environment to the client (figure 2; column 4 line 50 to column 5 line 63; and column 7 lines 23-61).

9. As to claims 5-7, Miller et al teach that the network interface card monitoring acknowledgment packets regarding the data packet from the client/server; recognizing an error condition at the network interface card if the acknowledgment packet regarding the transmitted data packet is not received from the client/server; and transmitting an indication of the error condition (abstract; column 2 lines 38-63; column 7 line 37 to column 8 line 59; and column 10 line 25 to column 11 line 37).

10. As to claims 8-14, they are also rejected for the same reasons set forth to rejecting claims 1-7 above.

11. As to claims 15-21, they are also rejected for the same reasons set forth to rejecting claims 1-7 above, since claims 15-21 are merely an apparatus for the method of operation defined in the method claims 1-7. Additionally, Miller et al disclose (claim 15) a server comprising: an operating system having a stack mechanism and a driver mechanism; a network interface card comprising a memory storing information related to a data packet; and a I/O bus coupled between the operating system and the network interface card (figures 2 and 5; column 5 lines 36-63; and column 13 lines 18-55).

12. As to claims 22-24, they are also rejected for the same reasons set forth to rejecting claims 1-7 and 15 above, since claims 22-24 are merely an apparatus for the method of operation defined in the method claims 1-7.

Additionally, Miller et al a network interface card comprising: a mechanism to communicate across a network so as to transmit the received data packets to a remote system and to receive an acknowledgment packet from the remote system across the network (figures 2 and 5; column 5 lines 36-63; and column 13 lines 18-55).

Response to Arguments

13. Applicants' arguments and amendments with respect to claims 1-24 filed on February 08, 2008 have been fully considered but they are not deemed to be persuasive for the claims 1-24.

In the remarks, the applicant argues that:

(A) **Argument:** Chalasani does not disclose or suggest that after sending the acknowledgement packet, transmitting the data packet across an I/O bus in the server environment as recited in claim 1; and neither Miller nor Chalasani, individually or in combination, disclose or suggest all of the features recited in claim 1.

Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See

In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800

F.2d 1091, 231 USPQ 375 (Fed.Cir.1986).

Miller et al teach a method of transferring data packets between a server environment and a client (abstract, figures 1-2; and column 4 line 50 to column 5 line 63), the method comprising: receiving a data packet from a stack (source) in the server environment; sending an acknowledgment packet to the stack; and after sending the acknowledgement packet, transmitting the data packet across an I/O bus (network) in the server environment to the client (figures 1-3; and column 5 line 64 to column 7 line 61; and column 15 line 27 to column 16 line 52). Chalasani et al teach that transmitting the data packet across an I/O bus (network) in the server (memory modules) environment; and the acknowledgment packet is sent to the stack (processing elements) without sending the acknowledgment packet across the I/O bus (sending the acknowledgment packet across a response network) (figures 1-3; and column 5 line 9 to column 6 line 20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chalasani et al stated above in the method of Miller et al as stated above because it would have improved managing and controlling a network switch and limit the flexibility and performance scalability of the network by reducing packet traffic across the I/O bus (network) in the server environment; therefore, the combination of the Miller and Chalasani explicitly teaches the claimed invention.

(B) **Argument:** Neither Miller nor Chalasani, individually or in combination, disclose or suggest a network interface card in combination with other features recited in the claims 15 and 22.

Response: Miller et al disclose (claim 15) a server comprising: an operating system having a stack mechanism and a driver mechanism; a network interface card comprising a memory storing information related to a data packet; and a I/O bus coupled between the operating system and the network interface card (figures 2 and 5; column 5 lines 36-63; and column 13 lines 18-55); and (claim 22) a network interface card comprising: a mechanism to communicate across a network so as to transmit the received data packets to a remote system and to receive an acknowledgment packet from the remote system across the network (figures 2 and 5; column 5 lines 36-63; and column 13 lines 18-55); therefore, the arguments towards the claims 15 and 22 is moot.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

/Bharat N Barot/

Primary Examiner, Art Unit 2155

May 06, 2008